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By:  / Jules E. Goldberg

Date: December 6, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: STEWART

Serial No.: 09/330,629

Filed: June 11, 1999

Art Unit: 1617

Examiner: San Ming R. Hui

Confirmation No.: 9658

Atty. Docket No.: JG-RP-4796/500561.20065

Customer No. 026418

**METHOD OF HIV AND HPV
PROPHYLAXIS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

Sir:

This amendment is submitted in response to the Office Action mailed July 6, 2006.

A two month extension of time is being filed concurrently herewith.

With respect to the provisional obviousness-type double patenting rejection, upon the issuance of a patent on Application No. 10/662,848, Applicants will file a terminal disclaimer.

Reconsideration and withdrawal of the rejection of the claims as being obvious over Dori WO '140 in view of Cooper, et al. '393, the Field texts and the Merck Manual are requested. The Examiner recognizes that Dori does not expressly teach the method of prophylaxis for human immunodeficiency virus by topical administration of the Compound No. 96. The Examiner further recognizes that Dori does not expressly teach the method of using a condom as an applicator to topically apply the Compound No. 96. The Examiner then relies on Cooper as teaching a method of topical administration of a medical agent by applicators including a condom and the Examiner asserts that Field teaches the common viral pathogens in humans. The Examiner relies on the Merck Manual as teaching employing anti-infective agent in anti-microbial chemoprophylaxis as common practice. However, it is submitted that in fact this is an improper characterization of these references. When the present application and claims refer to prophylaxis, it means a drug which interacts with the virus outside the cell prior to entry and prevents the virus from initiating an infection. The Compound CTC-96 achieves that HIV and HSV. Most drugs against these and other viruses act on virus replication once it is already inside the cell. Examples are Acyclovir and related drugs that do not interact with the intact virus and thus cannot prevent its entry into the cell.

The CTC-96 prevents the virus from interacting with the cell. Attached hereto is an article by Schwartz, Lium and Silverstein in the Journal of Virology that shows this characteristic for CTC-96 for herpes virus, VZV and VSV. It exhibits a broad spectrum of such activity on enveloped viruses, such as, HIV. None of the nucleotide analogs such as Acyclovir will do that. They are therapeutic and not prophylactic in this respect.

Clearly, the attached articles support the invention as recited in the claims with respect to Compound CTC-96 that it does in fact exert a prophylactic effect by acting on the virus outside the cell. The references relied on by the Examiner do not suggest such an effect or property nor a method for use of this particular drug in this manner. Accordingly, it is submitted that this application is in condition for allowance and favorable reconsideration and prompt Notice of Allowance are earnestly solicited.

Respectfully submitted,

Dated: December 6, 2006



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JEG:jlw